

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANDRIAN SHERMAN,) CASE NO. C07-0778-MJP-MAT
Plaintiff,)
v.) ORDER DENYING PLAINTIFF'S
PATRICK BARNES, et al.,) MOTION FOR EXTENSION OF TIME
Defendants.)

Plaintiff is a prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff and defendants have filed motions for summary judgment, which are noted for consideration by the Court on December 28, 2007. On December 26, 2007, plaintiff filed a motion for an extension of time to conduct further discovery and to file a response to defendants' motion for summary judgment. (Dkt. No. 37). Defendants have filed a response, opposing plaintiff's request for an extension of time. (Dkt. No. 38). Having reviewed plaintiff's motion, defendants' response, and the balance of the record, the Court does hereby find and ORDER as follows:

⁽¹⁾ On August 27, 2007, the Court issued a Pretrial Scheduling Order that set a

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01 deadline of November 1, 2007 as the cut-off date for discovery. (Dkt. No. 19). The Order also
02 specifically advised the parties that, due to notice requirements contained in the Federal Rules of
03 Civil Procedure, requests for discovery had to be submitted 30 days in advance of this deadline.

04 On October 30, 2007, plaintiff made his first discovery request to defendants. (Dkt. No.
05 38, Ex. 1 at 1). Defendants refused to comply with the request as they deemed it untimely. *Id.*)
06 Also on October 30, 2007, plaintiff filed a motion to extend the discovery deadline. (Dkt. No.
07 31). On November 20, 2007, the Court denied plaintiff's motion for an extension of time, noting
08 that plaintiff had foregone earlier opportunities to request such an extension, and that seeking an
09 extension was inconsistent with plaintiff's earlier filing of a motion for summary judgment. (Dkt.
10 No. 32 at 2). Finally, on December 4, 2007, the Court issued an Order renoting plaintiff's motion
11 for summary judgment for the same date as defendants' motion for summary judgment –
12 December 28, 2007 – and advising plaintiff that his response to defendants' motion was due no
13 later than December 24, 2007. (Dkt. No. 36).

14 In light of the above, plaintiff's eleventh-hour motion for an extension of time to conduct
15 discovery and respond to defendants' motion for summary judgment is not well-taken. Although
16 the Court is willing to accord plaintiff some leeway due to his *pro se* status, in this instance, it does
17 not appear that his *pro se* status has hindered him in litigating this lawsuit. Plaintiff complains in
18 his motion of inadequate access to a typewriter, but the Local Rules provide that hand-written
19 documents are acceptable. Local Rule CR 10(d) (W.D. Wash.). Nor has plaintiff shown that he
20 has been diligent in using the discovery tools that have been available to him. Accordingly,
21 plaintiff's motion for an extension of time (Dkt. No. 37) is DENIED.

22 (2) The Clerk is directed to send copies of this Order to plaintiff, to counsel for

01 defendants, and to the Honorable Marsha J. Pechman.

02 DATED this 8th day of January, 2008.

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04 Mary Alice Theiler
United States Magistrate Judge

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